

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMAR MATTHEWS,	:	
Plaintiff	:	
v.		: Case No. 3:23-cv-202-KAP
Ms. WITT, <i>et al.</i> ,	:	
Defendants	:	

Memorandum Order

Defendants filed a motion to dismiss at ECF no. 35, to which plaintiff Matthews replied with a motion to amend the complaint, at ECF no. 37. A party is permitted to amend a complaint as a matter of course in response to a motion to dismiss, Fed.R.Civ.P. 15(a)(1)(B), so the motion at ECF no. 37 is granted. The Clerk shall file the amended complaint (incorporating the addendum at ECF no. 38) at a new docket number. The motion to file a supplement to the original complaint, ECF no. 34, is denied as moot.

The motion to dismiss at ECF no. 35 is dismissed without prejudice. The Prison Litigation Reform Act requires me to screen the amended complaint, and I will do that in light of the motion to dismiss. Either side is permitted to file any supplemental briefing on the issues in the motion to dismiss on or before March 10, 2025. I will not wait on briefs if I get to screening the complaint earlier. Unless amended by order of court the pretrial schedule already ordered in my December 11, 2024 memorandum order at ECF no. 24 remains in effect.

Meanwhile, the amended complaint is dismissed without prejudice as to defendant Hollabaugh for the reasons set out in my December 11, 2024 memorandum order:

I will dismiss her as a named defendant from this action under Fed.R.Civ.P. 42(b) unless Matthews can within a reasonable time provide a reason why she should stay in this action and directions for service that allow the Marshal to identify her. The dismissal would be without prejudice since Matthews' claims against Hollabaugh, to the extent permitted at all, are in the case without Hollabaugh.

No reason to keep Hollabaugh in this case has been offered. She is sued in her official capacity only and the Pennsylvania Department of Corrections is already represented in this action because of the official capacity claims against the other eight defendants named in their official capacity.

DATE: February 19, 2025


Keith A. Pesto,
United States Magistrate Judge

Notice by ECF to counsel of record and by U.S. Mail to:

Jamar Matthews MB-2588
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